

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

UNITED STATES OF AMERICA, ex rel.)
DILBAGH SINGH, M.D., PAUL KIRSCH,)
M.D., V. RAO NADELLA, M.D., and)
MARTIN JACOBS, M.D.,)

Plaintiffs,)

vs.)

Civil Action
No. 04-186E

BRADFORD REGIONAL MEDICAL CENTER,)
V&S MEDICAL ASSOCIATES, LLC,)
PETER VACCARO, M.D., KAMRAN SALEH,)
M.D., and DOES I through XX,)

Defendants.)

DEPOSITION OF CORPORATE DESIGNEE OF

BRADFORD REGIONAL MEDICAL CENTER

THURSDAY, JULY 26, 2007

Deposition of CORPORATE DESIGNEE OF BRADFORD
REGIONAL MEDICAL CENTER, called as a witness by the
Plaintiffs, taken pursuant to Notice of Deposition and
the Federal Rules of Civil Procedure, by and before
Joy A. Hartman, a Court Reporter and Notary Public in
and for the Commonwealth of Pennsylvania, at the
offices of Harty Springer, 4614 Fifth Avenue, First
Floor, Pittsburgh, Pennsylvania, commencing at 10:03
a.m. on the day and date above set forth.

1 neighboring community hospital.

2 In that instance, in those kinds of instances,
3 the hospital finds itself -- the community hospital
4 finds itself in the position where it has to provide
5 stand-by services, it has to continue to find a way to
6 provide the most economically unattractive services,
7 and yet can have the people using its services
8 electively choosing where to send the most
9 predictable, the most financially advantageous
10 services.

11 Q. I am going to show you what we will mark as
12 Deposition Exhibit No. 8.

13 (Deposition Exhibit No. 8 was marked for
14 identification.)

15 Q. This document actually consists of two
16 documents. It is really the Resolution of the Board
17 of Directors, and then there is attached to it the
18 Procedures that I am assuming accompanied the Board
19 Resolution.

20 A. Yes.

21 Q. But maybe rather than me describe it, why don't
22 you take a look at this document and identify it, if
23 you can.

1 A. Yes. That is what it is.

2 Q. This is the Board resolution you were talking
3 about; is that right?

4 A. That's correct.

5 Q. And attached to it is part of the same document
6 or the procedures that were implemented to govern the
7 implementation of the policy; is that right?

8 A. Correct.

9 Q. And some of the issues that you have just
10 discussed are actually reflected in the preamble here;
11 is that right? If you look down there it says,
12 "Facing increasing competition of other health care
13 entities." Do you see where I am talking about, sort
14 of the preamble or the preface to the resolution.
15 There are several "whereas" paragraphs.

16 A. Yes. I was looking for that particular one,
17 but, yes.

18 Q. Now, am I correct that this would allow the
19 hospital to deny or not renew privileges for a
20 physician that the Board determined had a competing
21 financial interest; is that right? Is that the --

22 A. Yes, assuming that we went through all the
23 procedures.

1 point that V&S -- before we get there, strike that.

2 What is V&S? Explain to me, if you could, what
3 your understanding of V&S is?

4 A. My understanding is it is a professional
5 corporation consisting of Dr. Vaccaro and Dr. Saleh.

6 Q. And what did they do? What business were they
7 in?

8 A. The practice of medicine.

9 Q. What was the affiliation with the hospital,
10 let's say, at the beginning of January of 2001?

11 A. They were members of the medical staff.

12 Q. In what fields did they practice?

13 A. Internal medicine.

14 Q. Had they previously been employed by the
15 hospital?

16 A. Yes.

17 Q. When were they employed by the hospital?

18 A. They were employed by the hospital when the
19 hospital acquired practice where they were employed
20 physicians owned by Dr. Russell Weintraub, and that
21 was several years before that. I am sorry. I am
22 having a hard time picking the exact date out.

23 Q. And so they became employees of the hospital,

1 right?

2 A. Right.

3 Q. And the hospital owned that practice?

4 A. That's correct.

5 Q. At some point, did they go on their own?

6 A. Yes, they did.

7 Q. Did they buy a practice from the hospital?

8 A. Yes, they did.

9 Q. Was that the same practice that --

10 A. Yes.

11 Q. -- that they had sold to the hospital?

12 A. They had not sold it to the hospital.

13 Q. They were employees?

14 A. They were employees.

15 Q. And then the hospital sold the practice back to
16 them at some point?

17 A. That's correct.

18 Q. When did that occur?

19 A. I believe it was early in 2000.

20 Q. Now, in the spring of 2001, did the hospital
21 become aware of an ancillary venture that Drs. Vaccaro
22 and Saleh were developing?

23 A. We became aware in approximately April of 2001

1 Q. Well, what was the real purpose of that
2 agreement?

3 A. As I have said before, the real purpose of the
4 agreement was to get us into a situation where we had
5 a level field to compete in. We certainly -- we
6 certainly wanted to have the opportunity to compete
7 for V&S' business based on quality, based on the level
8 of service that we could provide to them and their
9 patients.

10 Q. Well, in order to compete for V&S' business,
11 you entered into an agreement where you would pay them
12 a certain amount a month; isn't that right?

13 A. We entered into a lease and a non-competition
14 agreement, yes.

15 Q. What was the amount that you agreed to pay them
16 each month, pursuant to that agreement? You can refer
17 to the document.

18 A. We agreed to pay them the pass-through cost of
19 the lease for the equipment and a specific amount for
20 the non-compete agreement and the other
21 considerations.

22 Q. And what was the -- do you -- if you want to
23 refer to the agreement, I would like you to identify

1 what the number was and how you arrived at the number.

2 A. The number here is \$29,250 per month. This
3 does not split those into the components that I was
4 talking about.

5 Q. But you said that it was to actually pay for
6 the pass-through cost to the equipment?

7 A. Correct.

8 Q. And also to pay for these other issues, I
9 guess, the non-compete?

10 A. Correct.

11 Q. Was it paying for anything else?

12 A. No.

13 Q. Now, did you evaluate whether the equipment
14 that you were paying for as a pass-through under this
15 agreement was equipment that could be used by the
16 hospital?

17 A. Yes.

18 Q. And did you make any kind of evaluation or
19 determination that this was a good value for the
20 rental payments that you were making here?

21 A. Yes. It was a good usable piece of equipment.
22 It didn't fit into our long-range plans, but it was a
23 good usable piece of equipment.

1 Q. Who is Mr. Day?

2 A. Mr. Day is an accountant and an attorney who
3 does this kind of work, as well as other work.

4 Q. Is he related to Stroudwater in any way?

5 A. No.

6 Q. So he is another consultant that you had assist
7 you with this --

8 A. Yes.

9 Q. -- this problem?

10 A. Yes.

11 Q. First of all, I guess, I don't think this
12 report is dated. Do you know when this report was
13 prepared or what time frame?

14 A. I don't know precisely when without the cover
15 letter that went with it. It was, you know, right
16 before we entered into the agreement.

17 Q. Was this prepared in connection with entering
18 into the sublease agreement?

19 A. Yes.

20 Q. What was the purpose of obtaining this report
21 at that time?

22 A. We felt very strongly that the agreement that
23 we were entering into was appropriate, that the value

1 that we were receiving was commensurate with what we
2 were paying, but we did want an independent opinion to
3 that effect.

4 Q. What was the assignment or the scope that you
5 gave to Mr. Day when you hired him to prepare this
6 report?

7 A. We gave him a letter of engagement, and I don't
8 remember everything that was in it; but, essentially,
9 it was to evaluate the arrangement and give us an
10 opinion as to whether or not the lease and non-compete
11 were fair market value.

12 Q. And when you say "fair market value," that
13 would require evaluating the lease arrangement for the
14 equipment?

15 A. Correct.

16 Q. But also valuing the other parts of the
17 agreement?

18 A. Correct.

19 Q. And, essentially, we are talking about
20 non-compete?

21 A. Correct.

22 Q. What you call the non-compete?

23 A. Correct.

1 Q. Is that how you arrived at the amount that V&S
2 would pay under the agreement?

3 A. No. We arrived at that amount through
4 negotiations.

5 Q. Okay.

6 A. We had a proposed negotiated and agreed upon
7 amount. We wanted an independent opinion as to
8 whether or not that was fair market value.

9 Q. You knew what the pass-through cost of the
10 equipment lease was, right?

11 A. That's right.

12 Q. So that amount didn't change at all?

13 A. No.

14 Q. Now, in the negotiations, explain to me how you
15 arrived at the number for the portion of the agreement
16 that covers the non-compete?

17 A. Through a long and sometimes arduous
18 negotiation.

19 Q. What was the value that the hospital placed on
20 the non-compete?

21 A. I don't know. If you are asking me where we
22 started, I don't remember.

23 Q. Do you recall what V&S put on it?

1 arrived.

2 Q. Well, that is what I want you to explain to me
3 next.

4 A. Okay.

5 Q. So the payments then were made in this amount
6 up through February of 2004?

7 A. Correct.

8 Q. And what happened in February of 2004?

9 A. This piece of equipment was replaced with the
10 new Philips CardioMD equipment that Mr. Washington
11 described earlier today.

12 Q. Okay. And?

13 A. And the lease pass-through from GE was replaced
14 with a lease pass-through from Philips, and that was a
15 slightly different amount.

16 Q. Who is the lessee on the lease with Philips?

17 A. Vaccaro and Saleh.

18 Q. So Vaccaro and Saleh -- so V&S continues to be
19 the lessee and the Bradford Hospital or BRMC continues
20 to be the sublessee?

21 A. Yes.

22 Q. And you said that there was a change in the
23 amount. Was it more or less?

1 A. It was a little bit more. I can't remember
2 exactly what the difference is right now.

3 Q. So the amount that was paid to V&S then
4 increased as a result of that change in the lease?

5 A. Yes.

6 Q. So they are actually being paid slightly more
7 than the \$30,200?

8 A. Yes.

9 Q. Is the only part of it that changed the
10 pass-through amount?

11 A. Yes.

12 Q. Do you know whether V&S has made all of the
13 payments to Philips or to GE prior to that?

14 A. I don't have independent knowledge of that, no.

15 Q. Have you been notified that they are in -- that
16 they have at any time been in default --

17 A. No.

18 Q. -- at any time under the lease agreement with
19 either GE or Philips?

20 A. No.

21 Q. Now, beginning in October of 2006, I assume the
22 second rental period began; is that right?

23 A. The second rental period that was discussed in

1 Q. And so the adjustments or changes are a
2 reflection of the substitute of new equipment and a
3 new lease?

4 A. Right.

5 Q. In all other respects, the agreement is the
6 same?

7 A. Exactly.

8 Q. So the amount that is being paid for the
9 non-compete has remained the same in both of the
10 rental periods?

11 A. Yes.

12 Q. Now, on page five under Section 7, this is the
13 section that is Representations, Warranties, Covenants
14 of Sublessee, it says that under (c) that by entering
15 into this sublease, the sublessee is not in violation
16 of any of the laws or agreements applicable to a
17 sublessee. Do you believe that that is still the
18 case?

19 A. Yes.

20 Q. Do you believe that you have any obligation to
21 indemnify V&S if that's not the case?

22 A. No.

23 Q. Have you entered into any agreements since this

C E R T I F I C A T E

COMMONWEALTH OF PENNSYLVANIA :
: SS.:
COUNTY OF ALLEGHENY :

I, Joy A. Hartman, a Notary Public in and for the Commonwealth of Pennsylvania, do hereby certify that before me personally appeared TINA MARIE HANNAHS, GLEN ALAN WASHINGTON, and GEORGE LEONHARDT, the witnesses herein, who then were by me first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the taking of their oral deposition in the cause aforesaid; that the testimony then given by them as above set forth was reduced to stenotypy by me, in the presence of said witness, and afterwards transcribed by computer-aided transcription under my direction.

I do further certify that this deposition was taken at the time and place specified in the foregoing caption, and signature was not waived.

I do further certify that I am not a relative of or counsel or attorney for any party hereto, nor am I otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Pittsburgh, Pennsylvania, on this 31st day of July, 2007.

The foregoing certification does not apply to any reproduction of this transcript in any respect unless under the direct control and/or direction of the certifying reporter.

Commonwealth of Pennsylvania
NOTARIAL SEAL
JOY A. HARTMAN, Notary Public
City of Pittsburgh, County of Allegheny
My Commission Expires May 9, 2010

Joy A. Hartman
Joy A. Hartman, Notary Public
in and for the Commonwealth of
Pennsylvania

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